



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,189	01/12/2001	Charles R. Sperry	D-20086-01	2431

28236 7590 02/25/2003

CRYOVAC, INC.
SEALED AIR CORP
P.O. BOX 464
DUNCAN, SC 29334

EXAMINER

TRUONG, THANH K

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 02/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/760,189

Applicant(s)

SPERRY ET AL.

Examiner

Thanh K Truong

Art Unit

3721

-- Th MAILING DATE of this communication appears on th cov r sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. This action is in response to applicant's amendment, Paper No. 8, received on December 11, 2002.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sperry et al. (5,255,847) (hereinafter Sperry '847) in view of Schmitter (5,129,580).

Sperry '847 discloses an apparatus comprising: a housing 13 defining an internal chamber 22 bounded by an interior surface with the housing; an inlet 14 or 15 for receiving fluid product into the housing; a discharge port 17 through which fluid product may exit the housing; and a valving rod 16 disposed in the housing and being movable within the internal chamber between an open position and a closed position.

Sperry '847 further discloses a mechanism that conveys a web of film along a predetermined path of travel, the film web comprising two juxtaposed plies of plastic film that define a partially-formed flexible container; one or more devices for sealing the plies of plastic film together thereby enclosing the fluid product therein (figure 1, column 1, lines 6-10 and lines 19-28); and a conduit providing fluid communication between the internal reservoir and the discharge port (figure 1).

Sperry '847 discloses the claimed invention, except for the valving rod that has a central bore; at least one inlet, and one or more outlet ports.

Schmitter discloses a device (figures 1, 2 and 5) that comprising: a valving rod 1 comprising: a central bore 3; at least one inlet 3; one or more outlet ports 4 in fluid communication with the bore and being capable of directing cleaning solvent radially outward from the bore and against the interior surface bounding the internal chamber 2 for spraying liquid as the dispersing agent (column 2, lines 2-3). Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to modify Sperry et al.'s valving rod by applying the teaching from schmitter to provide a valving rod with bore and outlet ports for delivering cleaning solution to the tip of the fluid dispenser.

4. Claims 8, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sperry et al. (5,255,847) (hereinafter Sperry '847) in view of Schmitter (5,129,580) and further in view of Zwirlein, Jr. et al. (5,040,728).

As discussed above in paragraph 3 of this office action, the modified Sperry '847 disclosed the claimed invention, except for mentioning the fluid product comprising polyols and isocyanates.

Zwirlein, Jr. et al. discloses the use of polyols and isocyanates to produce polyurethane foam (column 1, lines 20-29) in packaging for protecting product during shipment (column 1, lines 30-34). Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to use polyols and

isocyanates as the mixture of fluid to produce polyurethane foam that can be cure in a very short time (column 1, lines 27-29).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-6, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Sperry et al. (5,996,848) (hereinafter Sperry '848).

Sperry '848 discloses a fluid dispenser comprising:

a housing 148 defining an internal chamber 188, and the housing comprising: an inlet 172 or 174 for receiving a fluid product into the housing and being in fluid communication with the internal chamber, and a discharge port 153 through which fluid product may exit the housing, and the discharge port being in fluid communication with the internal chamber; and

a valving rod 218, 268 disposed in the housing and being movable within the internal chamber between an open position, in which fluid product may flow through the internal chamber and exit the housing via the discharge port, and a closed position, in which fluid product is substantially prevented from flowing through the internal chamber (figures 28 & 29), the valving rod comprising:

a central bore 230, at least one inlet 256 for receiving a cleaning solvent, the inlet being in fluid communication with the bore, and one or more outlet ports 234, 236 in

fluid communication with the bore, the outlet ports being capable of directing cleaning solvent radially from the bore and against the interior surface bounding the internal chamber to facilitate the removal of at least a portion of any fluid product or derivatives thereof that may be in adherence with the interior surface (figure 28 & column 37, lines 12-15).

Sperry '848 further discloses the housing has a longitudinal axis; the bore of the valving rod is substantially aligned with the longitudinal axis; and the valving rod translates between the open and closed positions along the longitudinal axis (figures 25, 27, 28A & 29); & 29); the discharge port has an interior surface that defines part of the internal chamber of the housing; and the valving rod is adapted to direct cleaning solvent against the interior surface of the discharge port when the valving rod is in the closed position (column 35, lines 42-53); the housing further comprises an internal reservoir 200 (and the space between 290 and 220) in which cleaning solvent may be contained, the internal reservoir being in fluid communication with the at least one inlet into the central bore of the valving rod (figure 28); a portion of the valving rod is movable through the internal reservoir (figures 25, 27, 28 & 29); the housing has at least one inlet 166 (figure 9) in fluid communication with the internal reservoir so that cleaning solvent from an external source may be added to the reservoir as needed (column 38, lines 67 & column 39, lines 1-3); the dispenser is adapted to dispense a fluid product selected from polyols, isocyanates, and mixtures of polyols and isocyanates (column 1, lines 32-44); and the cleaning solvent is selected from glycols, ethers, and mixtures of glycols and ethers (column 36, lines 12-16 & lines 26-30).

7. Claims 10-15 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sperry et al. (5,255,847) in view of Sperry et al. (5,996,848).

Sperry '847 discloses a mechanism that conveys a web of film along a predetermined path of travel, the film web comprising two juxtaposed plies of plastic film that define a partially-formed flexible container; one or more devices for sealing the plies of plastic film together thereby enclosing the fluid product therein (figure 1, column 1, lines 6-10 and lines 19-28); and a conduit providing fluid communication between the internal reservoir and the discharge port (figure 1).

Sperry '847 discloses the claimed invention, except for the fluid dispenser as recited in claims 10-15 and 17-20.

As discussed above in paragraph 6 of this office action, Sperry '848 discloses the fluid dispenser as recited in claims 10-15 and 17-20. The Sperry '848 dispenser provides a system that puts out a precise and consistent amount of high quality foam, preventing the obstruction of any chemical to the inlet port, and avoiding any degrading foam precursor build up in general (column 6, lines 51-57).

Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to modify Sperry '847 dispenser system by incorporating the improved dispenser system as taught by Sperry '848 for a higher output, reliable and requires less maintenance system.

8. Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sperry et al. (5,255,847) in view of Sperry et al. (5,996,848).

As discussed above in paragraph 7 of this office action, the modified Sperry '847 and Sperry '848 discloses the claimed invention, except for not expressly discloses the mechanism to apply a pressure ranging from about 2 to about 12 psi to the internal reservoir.

Sperry '848, figure 1 discloses that means 1106 provide mechanism to supply solvent to dispenser, and column 24, lines 12-17 & lines 34-39 discloses that pressure is applying to the internal reservoir. Furthermore, the phrase "sufficient pressure", recited in column 24, line 15, implies that any ranges of pressure, including a pressure ranging from about 2 to 12 psi, is inherently taught by Sperry '848. Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to apply a pressure ranging from about 2 to 12 psi to the internal reservoir to insure a sufficient pressure is applied to the solvent reservoir so that the cleaning solvent can be delivered through out the dispenser system.

Response to Arguments

9. Applicant's arguments filed December 11, 2002 have been fully considered but they are not persuasive.

In response to Applicant's argument that Schmitter does not disclose a cleaning solvent, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

In response to Applicant's argument that neither Sperry nor Schmitter discloses a conduit providing fluid communication between the internal reservoir and the discharge port to deliver cleaning solvent to the discharge port as recited in claim 20, the 103 rejection of claim 20 based on Sperry et al. (5,255,847) in view of Schmitter (5,129,580) is withdrawn.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on November 13, 2002 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K Truong whose telephone number is (703) 605-0423. The examiner can normally be reached on Mon-Thurs from 8:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (703) 308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-7769 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

tkf
February 13, 2003



Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700